vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4388 OF 2005

Shri P.V. Sreedharan ... Petitioner

V/s.

Shr Panditrao Martand Joshi ... Respondent

Mr.A.S. Gadkari for Petitioner
Mr.R.S. Patil for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 18, 2005**

P.C.:

. This Petition challenges the concurrent findings of fact recorded by both the Courts below. Both the Courts have found that the premises were not in use without reasonable cause for six months immediately preceding the filing of the suit. Therefore, the suit has been decreed on the ground of section 13(1)(k) of the Bombay Rent Act. Mr.Gadkari, appearing for the Petitioner submits that exhibit 16 which is a letter dated 28.8.1997 shows that the Petitioner was residing in the suit premises till 28.8.1997. The suit was filed on 21.2.1990, even prior to the 6 months period elapsing and, therefore, was not maintainable. He relies on the judgment of this Court in the case of *Smt.D.Malini wd/o. M.Gopal & Ors. v/s. Samirmal Amolakchand Kucheria &*

Ors., **222 Bom. R.C 1987.**

2. In my view, the Petitioner's case that he was residing in the suit premises even during the six months prior to the filing of the suit or in any event upto 28.8.1997 is not borne out by his cross-examination. His entire case has been demolished in the cross-examination where he states in paragraph 17 thus:

> 17. On 25th May, 1979 I joined in TATA Exports Ltd. After leaving my job of Asian Paints I joined subsidiary of Tata Exports Ltd. At that time I was given my letter of appointment. That letter of appointment is with me. I have not produced that appointment is letter here. After my joining to Tata Export Ltd. I was given posting at following places. 1. Muscat-31st Jan.78 till 5th May, 79, Dubai-April 93 till 15th June, 96, Cochin 3/9/96 till June 1997, Madras - Since July 97 till today. I have requested my employer to transfer me at Bombay. Now I am shown my letter dt.2nd May, 97. It bears my signature. Its contents are correct. By this letter I have requested to transfer me at Bombay again. This letter is at Exh.68. (referred in cross hence exhibited).

3. In my view, therefore, the Petitioner has not made out any case for interference. Petition is rejected accordingly.